

NORWALK-LA MIRADA UNIFIED SCHOOL DISTRICT

Audit Report

COLLECTIVE BARGAINING PROGRAM

Chapter 961, Statutes of 1975,
and Chapter 1213, Statutes of 1991

July 1, 2000, through June 30, 2003



STEVE WESTLY
California State Controller

December 2005



STEVE WESTLY
California State Controller

December 23, 2005

Ginger Shattuck, Superintendent
Norwalk-La Mirada Unified School District
12820 Pioneer Boulevard
Norwalk, CA 90650-2894

Dear Ms. Shattuck:

The State Controller's Office audited the costs claimed by the Norwalk-La Mirada Unified School District for the legislatively mandated Collective Bargaining Program (Chapter 961, Statutes of 1975, and Chapter 1213, Statutes of 1991) for the period of July 1, 2000, through June 30, 2003.

The district claimed \$1,118,551 for the mandated program. Our audit disclosed that \$309,460 is allowable and \$809,091 is unallowable. The unallowable costs occurred primarily because the district claimed unsupported costs and included direct program costs in its indirect cost pools. The State paid the district \$573,526. The amount paid exceeds allowable costs claimed by \$264,066.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (COSM). The IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at COSM's Web site, at www.csm.ca.gov (Guidebook link); you may obtain IRC forms by telephone, at (916) 323-3562, or by e-mail, at csminfo@csm.ca.gov.

If you have any questions, please contact Jim L. Spano, Chief, Compliance Audits Bureau, at (916) 323-5849.

Sincerely,

Original Signed By:

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/ams:wq

cc: Maureen Saul, Ph.D.

Assistant Superintendent of Business Services
Norwalk-La Mirada Unified School District

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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by the Norwalk-La Mirada Unified School District for the legislatively mandated Collective Bargaining Program (Chapter 961, Statutes of 1975, and Chapter 1213, Statutes of 1991) for the period of July 1, 2000, through June 30, 2003. The last day of fieldwork was March 17, 2005.

The district claimed \$1,118,551 for the mandated program. Our audit disclosed that \$309,460 is allowable and \$809,091 is unallowable. The unallowable costs occurred primarily because the district claimed unsupported costs and included direct program costs in its indirect cost pools. The State paid the district \$573,526. The amount paid exceeds allowable costs claimed by \$264,066.

Background

In 1975, the State enacted the Rodda Act (Chapter 961, Statutes of 1975), requiring the employer and employee to meet and negotiate, thereby creating a collective bargaining atmosphere for public school employers. The legislation created the Public Employment Relations Board to issue formal interpretations and rulings regarding collective bargaining under the Act. In addition, the legislation established organizational rights of employees and representational rights of employee organizations, and recognized exclusive representatives relating to collective bargaining.

On July 17, 1978, the Board of Control (now the Commission on State Mandates [COSM]) determined that the Rodda Act imposed a state mandate upon school districts reimbursable under *Government Code* Section 17561.

Chapter 1213, Statutes of 1991, added *Government Code* Section 3547.5, requiring school districts to publicly disclose major provisions of a collective bargaining effort before the agreement becomes binding.

On August 20, 1998, COSM determined that this legislation also imposed a state mandate upon school districts reimbursable under *Government Code* Section 17561. Costs of publicly disclosing major provisions of collective bargaining agreements that districts incurred after July 1, 1996, are allowable.

Claimants are allowed to claim increased costs. For claim components G1 through G3, increased costs represent the difference between the current-year Rodda Act activities and the base-year Winton Act activities (generally, fiscal year [FY] 1974-75), as adjusted by the implicit price deflator. For components G4 through G7, increased costs represent actual costs incurred.

The seven components are as follows:

- G1–Determining bargaining units and exclusive representatives
- G2–Election of unit representatives
- G3–Costs of negotiations
- G4–Impasse proceedings
- G5–Collective bargaining agreement disclosure
- G6–Contract administration
- G7–Unfair labor practice costs

Parameters and Guidelines establishes the state mandate and defines reimbursement criteria. COSM adopted *Parameters and Guidelines* on October 22, 1980, and last amended it on January 27, 2000. In compliance with *Government Code* Section 17558, the SCO issues claiming instructions for mandated programs, to assist local agencies and school districts in claiming reimbursable costs.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Collective Bargaining Program for the period of July 1, 2000, through June 30, 2003.

Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

We conducted the audit according to *Government Auditing Standards*, issued by the Comptroller General of the United States, and under the authority of *Government Code* Section 17558.5. We did not audit the district's financial statements. We limited our audit scope to planning and performing audit procedures necessary to obtain reasonable assurance that costs claimed were allowable for reimbursement. Accordingly, we examined transactions, on a test basis, to determine whether the costs claimed were supported.

We limited our review of the district's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

We asked the district's representative to submit a written representation letter regarding the district's accounting procedures, financial records, and mandated cost claiming procedures as recommended by *Government Auditing Standards*. However, the district declined our request.

Conclusion

Our audit disclosed instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Findings and Recommendations section of this report.

For the audit period, the Norwalk-La Mirada Unified School District claimed \$1,118,551 for costs of the Collective Bargaining Program. Our audit disclosed that \$309,460 is allowable and \$809,091 is unallowable.

For FY 2000-01, the State paid the district \$262,348. Our audit disclosed that \$34,801 is allowable. The district should return \$227,547 to the State.

For FY 2001-02, the State paid the district \$311,178. Our audit disclosed that \$97,667 is allowable. The district should return \$213,511 to the State.

For FY 2002-03, the district received no payment. Our audit disclosed that \$176,992 is allowable. The State will pay allowable costs claimed, totaling \$176,992, contingent upon available appropriations.

Views of Responsible Official

We issued a draft audit report on August 26, 2005. Maureen Saul, Assistant Superintendent of Business Services, responded by letter dated September 26, 2005 (Attachment), disagreeing with the audit results. This final audit report includes the district's response.

Restricted Use

This report is solely for the information and use of the Norwalk-La Mirada Unified School District, the Los Angeles County Office of Education, the California Department of Education, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original Signed By:

JEFFREY V. BROWNFIELD
Chief, Division of Audits

Schedule 1— Summary of Program Costs July 1, 2000, through June 30, 2003

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2000, through June 30, 2001</u>				
Components activities G1 through G3:				
Salaries and benefits	\$ 99,656	\$ 22,211	\$ (77,445)	Finding 1
Materials and supplies	314	314	—	
Contracted services	6,230	5,125	(1,105)	Finding 2
Subtotals	106,200	27,650	(78,550)	
Less adjusted base-year direct costs	—	—	—	
Subtotals	106,200	27,650	(78,550)	
Adjustment to reduce balance to zero	—	—	—	
Increased direct costs, G1 through G3	106,200	27,650	(78,550)	
Components activities G4 through G7:				
Salaries and benefits	165,874	26,529	(139,345)	Finding 1
Materials and supplies	754	754	—	
Contracted services	7,333	7,333	—	
Increased direct costs, G4 through G7	173,961	34,616	(139,345)	
Total increased direct costs, G1 through G7	280,161	62,266	(217,895)	
Claim adjustment	—	—	—	
Indirect costs	17,995	3,362	(14,633)	Finding 1
Indirect costs adjustment	—	(2,406)	(2,406)	Finding 3
Offsetting revenues	—	(28,421)	(28,421)	Finding 4
Total costs	<u>\$ 298,156</u>	34,801	<u>\$ (263,355)</u>	
Less amount paid by the State		(262,348)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (227,547)</u>		
<u>July 1, 2001, through June 30, 2002</u>				
Components activities G1 through G3:				
Salaries and benefits	\$ 173,242	\$ 156,261	\$ (16,981)	Finding 1
Materials and supplies	314	314	—	
Contracted services	—	—	—	
Subtotals	173,556	156,575	(16,981)	
Less adjusted base-year direct costs	—	—	—	
Subtotals	173,556	156,575	(16,981)	
Adjustment to reduce balance to zero	—	—	—	
Increased direct costs, G1 through G3	173,556	156,575	(16,981)	

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2001, through June 30, 2002 (continued)</u>				
Components activities G4 through G7:				
Salaries and benefits	163,511	78,864	(84,647)	Finding 1
Materials and supplies	158	158	—	
Contracted services	5,848	5,848	—	
Increased direct costs, G4 through G7	169,517	84,870	(84,647)	
Total increased direct costs, G1 through G7	343,073	241,445	(101,628)	
Claim adjustment	—	—	—	
Indirect costs	22,796	15,926	(6,870)	Finding 1
Indirect costs adjustment	—	(12,508)	(12,508)	Finding 3
Offsetting revenues	—	(147,196)	(147,196)	Finding 4
Total costs	<u>\$ 365,869</u>	97,667	<u>\$ (268,202)</u>	
Less amount paid by the State		(311,178)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (213,511)</u>		
<u>July 1, 2002, through June 30, 2003</u>				
Components activities G1 through G3:				
Salaries and benefits	\$ 130,533	\$ 104,913	\$ (25,620)	Finding 1
Materials and supplies	314	314	—	
Contracted services	—	—	—	
Subtotals	130,847	105,227	(25,620)	
Less adjusted base-year direct costs	—	—	—	
Subtotals	130,847	105,227	(25,620)	
Adjustment to reduce balance to zero	—	—	—	
Increased direct costs, G1 through G3	130,847	105,227	(25,620)	
Components activities G4 through G7:				
Salaries and benefits	162,445	35,928	(126,517)	Finding 1
Materials and supplies	919	919	—	
Contracted services	138,485	126,858	(11,627)	Finding 2
Increased direct costs, G4 through G7	301,849	163,705	(138,144)	
Total increased direct costs, G1 through G7	432,696	268,932	(163,764)	
Indirect costs	21,830	10,542	(11,288)	Finding 1
Indirect costs adjustment	—	(8,655)	(8,655)	Finding 3
Offsetting revenues	—	(93,827)	(93,827)	Finding 4
Total costs	<u>\$ 454,526</u>	176,992	<u>\$ (277,534)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 176,992</u>		

Schedule 1 (continued)

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustment</u>	<u>Reference</u> ¹
<u>Summary: July 1, 2000, through June 30, 2003</u>				
Components activities G1 through G3:				
Salaries and benefits	\$ 403,431	\$ 283,385	\$ (120,046)	Finding 1
Materials and supplies	942	942	—	
Contracted services	6,230	5,125	(1,105)	Finding 2
Subtotals	410,603	289,452	(121,151)	
Less adjusted base-year direct costs	—	—	—	
Subtotals	410,603	289,452	(121,151)	
Adjustment to reduce balance to zero	—	—	—	
Increased direct costs, G1 through G3	410,603	289,452	(121,151)	
Components activities G4 through G7:				
Salaries and benefits	491,830	141,321	(350,509)	Finding 1
Materials and supplies	1,831	1,831	—	
Contracted services	151,666	140,039	(11,627)	
Increased direct costs, G4 through G7	645,327	283,191	(362,136)	
Total increased direct costs, G1 through G7	1,055,930	572,643	(483,287)	
Indirect costs	62,621	29,830	(32,791)	Finding 1
Indirect costs adjustment	—	(23,569)	(23,569)	Finding 3
Offsetting revenues	—	(269,444)	(269,444)	Finding 4
Total costs	<u>\$1,118,551</u>	309,460	<u>\$ (809,091)</u>	
Less amount paid by the State		(573,526)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (264,066)</u>		

¹ See the Findings and Recommendations section.

Findings and Recommendations

FINDING 1— Unallowable salary, and benefit costs, and related indirect costs

The district claimed unallowable salary and benefit costs totaling \$470,555 during the audit period. The related indirect costs, based on the claimed indirect cost rate for each fiscal year, totaled \$32,791. Specifically, the district did not provide adequate source documents—such as individual activity log sheets or time records—to support employee hours charged.

The district supported the costs with forms identified as the “Mandate: 961/75 Collective Bargaining.” The forms contained the month and year of the activity, description of the activity, and the hours claimed for each month of the fiscal year. Most of the forms were prepared and signed by the employees on dates at or following the end of the fiscal year, June 30. The dates next to each employee’s signature varied from employee to employee—ranging from July to December after fiscal year-end. In a few instances, forms were signed from one to six months after the month claimed. No other source documents were provided to validate the estimated hours reported on these forms.

Component G3—Cost of Negotiations

The district did not provide adequate supporting documentation for costs totaling \$120,046.

Component G6—Contract Administration

The district did not provide adequate supporting documentation for costs totaling \$350,509.

The following provides a summary breakdown of unallowable salary and benefit costs and related indirect costs due to unsupported hours.

Elements/Components	Fiscal Year			Total
	2000-01	2001-02	2002-03	
Salary and benefit costs:				
Component G3—				
Cost of negotiation	\$ (77,445)	\$ (16,981)	\$ (25,620)	\$ (120,046)
Component G6—				
Contract administration	<u>(139,345)</u>	<u>(84,647)</u>	<u>(126,517)</u>	<u>(350,509)</u>
Subtotal	(216,790)	(101,628)	(152,137)	(470,555)
Related indirect costs	<u>(14,633)</u>	<u>(6,870)</u>	<u>(11,288)</u>	<u>(32,791)</u>
Audit adjustment	<u>\$ (231,423)</u>	<u>\$ (108,498)</u>	<u>\$ (163,425)</u>	<u>\$ (503,346)</u>

Parameters and Guidelines states, “Cost must be shown separately by component activity” and that “Public school employers will be reimbursed for the increased costs incurred as a result of compliance with the mandate.”

For salary and employees’ benefits, *Parameters and Guidelines* requires the district to “Show the classification of the employees involved, the amount of time spent, and their hourly rate.”

Recommendation

We recommend that the district ensure that all claimed costs are supported by appropriate documentation. Documentation should identify the mandated functions performed and support the actual number of hours devoted to each function.

District's Response

In Finding 1, the draft audit report eliminates about half of the reported costs, \$503,346, as “unallowable salary and benefits costs.” The Controller asserts that the reason for the adjustment is that the “district did not provide adequate source documents—such as individual activity log sheets or time records—to support employee hours charged.” The entire basis for this finding is the quantity and quality of District documentation. None of the adjustments were made because the costs claimed were excessive or unreasonable. The parameters and guidelines state:

- “G. 3. Negotiations:
- a. Show the costs of salaries and benefits for employer representatives participating in negotiations. Contracted services will be reimbursed.
 - b. Show the costs of salaries and benefits for employer representatives participating in negotiation planning sessions. Contracted services for employer representatives will be reimbursed.
 - c. Indicate the cost of substitutes for release time of exclusive bargaining unit representatives during negotiations. Give the job classification of the bargaining unit representative that required a substitute and dates the substitute worked.
6. Contract administration and adjudication of contract disputes either by arbitration or litigation. . .
- a. Salaries and benefits of employer personnel involved in adjudication of contract disputes. Contracted services will be reimbursed.
- H. 3. Salary and Employee's Benefits: Show the classification of the employees involved, amount of time spent, and their hourly rate. The worksheet used to compute the hourly salary rate must be submitted with your claim. Benefits are reimbursable. Actual benefit percent must be itemized. If no itemization is submitted, 21 percent must be used for computation of claim costs. Identify the classification of employees committed to functions required under the Winton Act and those required by Chapter 961, Statutes of 1975.”

The parameters and guidelines essentially require claimants to “show” or “indicate” the costs claimed. While everyone involved in the mandate reimbursement process can regret the imprecision of these instructions, these instructions do not require as a specific condition of reimbursement that claimants provide the “individual activity log sheets or time records” the Controller has established after the fact as an audit requirement. Instead, the parameters and guidelines specify a “worksheet” supporting the calculation of hourly rates and benefits.

Although the Controller does not cite in the audit report any other factual or legal reason to eliminate the reported costs, the audit staff made it clear during the audit that there are additional unpublished documentation standards, which caused the auditor to reject documentation provided by the District which was prepared in the ordinary course of business:

Annual Reporting

The Controller asserts that a monthly or annual summary of staff hours spent on the mandated activities is unacceptable. The Controller's standard is that all mandate and non-mandate daily activities of each employee should be recorded contemporaneously on some sort of daily time sheet. This is a policy preference of the Controller and not supported by the parameters and guidelines or any other legal basis, and as a practical matter inconsistent with the state mandated annual financial reporting requirements of the California Department of Education.

Employee Declarations

The District reported staff time for this mandate using documentation, which the Controller characterizes as "employee declarations." The Controller has, as a matter of policy rather than law, rejected the use of employee declarations because they are not contemporaneous documentation and are without corroborating evidence. The parameters and guidelines make no reference to contemporaneous documentation or corroborating evidence, yet the Controller insists that such a standard must be applied. If claimants are not aware of increased documentation standards until the audit occurs it is not possible for claimants to comply with the standards.

Arbitrary Rules

The Controller is asserting documentation standards, which are not stated in the parameters and guidelines and not adopted pursuant to the Administrative Procedure Act. In fact, it appears that some auditors, or SCO field offices, are making up their own rules. A good example is included in the March 17, 2005 exit conference agenda provided by the auditor. Under item C, the auditor insists "staff who claimed half of the annual hours (over 900 hours) would need duty statements to support the claims in the future." There is no requirement in the parameters and guidelines for a claimant to rewrite their employee job statements as a condition of mandate reimbursement. The alleged requirement would interfere with local government agency compliance with the state Labor and Education Codes regarding the statutory and contractual relationship between employer and employee, as well as impact the collective bargaining process the Controller is auditing and ostensibly comprehends. Further, and perhaps ironically, Controller staff has always previously asserted that job descriptions are per se insufficient documentation for annual claims.

The exit conference agenda also chastises the District about the availability of payroll information. Payroll reporting format and record retention requirements are controlled by other state laws, which are not subject to the convenience of either the District or Controller. On the other hand, should the Controller publish additional standards, claimants would be able to comply in the usual course of business, rather than after the fact when the auditor arrives on the site.

SCO's Comment

The fiscal impact of the finding and recommendation remains unchanged. The finding has been updated to clarify the documentation the district provided to the auditors. Following are our comments on issues presented by the district in its response.

Employee Time Records/Annual Reporting/Employee Declarations

Parameters and Guidelines requires the district to show the amount of time spent on the mandate and further states that the district will be reimbursed for "increased costs" incurred as a result of compliance with the mandate. It is unreasonable for the district to support actual costs incurred for employees working on multiple activities or cost objectives with year-end declarations without providing any corroborating evidence supporting the time claimed.

Furthermore, the district-submitted documentation for time claimed for these employees is not in compliance with the documentation requirements of the California Department of Education's (CDE) *California School Accounting Manual*.

California *Education Code* Section 41010 requires school districts to follow procedures in the *California School Accounting Manual*. This manual is based on Office of Management and Budgeting (OMB) Circular A-87, *Cost Principles for State, Local, and Indian Tribal Government*. Some of the federal cost principles have been further clarified in an April 8, 1997, guide issued by the U. S. Department of Health and Human Services entitled, *A Guide for State, Local, and Indian Tribal Government* (ASMB C-10).

The *California School Accounting Manual* states that personnel activity reports or equivalent documentation must meet the standards identified below for salaries and wages that are federally funded or charged to state restricted programs (resources). The manual also states that a substitute system of time accounting is allowed for federally funded salaries and wages if approved by the U.S. Department of Education. Both requirements are consistent with OMB Circular A-87, Attachment B.11(h)(5) and (6). The *California School Accounting Manual* requires that the personnel activity reports or equivalent documentation must:

- (a) Reflect an after-the-fact distribution of the actual activity of each employee;
- (b) Account for the total activity for which each employee is compensated;
- (c) Be prepared at least monthly and must coincide with one or more pay period; and
- (d) Be signed by the employee.

Arbitrary Rules

The SCO is not asserting documentation standards. Our audit was conducted in accordance with generally accepted government auditing standards, which require us to base our conclusions on sufficient,

competent, and relevant evidence. We requested duty statements from the district in order to gain an understanding of work performed and to assist in assessing the validity of costs claimed.

We refute the district's assertion that, "The exit conference agenda also chastises the district about the availability of payroll information." This issue was brought up at the exit conference because the SCO auditors were not provided with payroll data in a timely manner and in many instances, as explained above, the payroll data lacked support. The exit conference is a forum at which the auditors may present audit findings and other issues of concern and obtain feedback from the claimants.

**FINDING 2—
Unallowable contract
services costs**

The district claimed unsupported contract services costs totaling \$12,732 during the audit period. Costs are unallowable for the following reasons.

Component G3—Cost of Negotiations

For FY 2000-01, the district overclaimed contract services by \$1,105 for services that did not fall under any of the seven components of reimbursable activities under the collective bargaining program. The amount spent was for an Associate Student Body workshop and undefined clerical support.

Component G6—Contract Administration

For FY 2002-03, the district overclaimed contract services costs by \$11,627. The misstatement occurred for two reasons. First, the district claimed 74.75 hours of attorney services at a rate of \$135 per hour; however, these services were billed to the district at the rate of \$100 per hour. Second, 66.75 hours the district claimed for legal services were not supported by source documentation.

Elements/Components	Fiscal Year			Total
	2000-01	2001-02	2002-03	
Contract services:				
Component G3—				
Cost of negotiation	\$ (1,105)	\$ —	\$ —	\$ (1,105)
Component G6—				
Contract administration	—	—	(11,627)	(11,627)
Audit adjustment	<u>\$ (1,105)</u>	<u>\$ —</u>	<u>\$ (11,627)</u>	<u>\$ (12,732)</u>

Parameters and Guidelines states, "Public school employers will be reimbursed for the increased costs incurred as a result of compliance with the mandate."

Parameters and Guidelines requires that the district, "Show separately the names of professionals or consultants, specify the functions the consultants performed relative to the mandate, specify the length of appointment, and provide itemized costs for such services." It further states, "... the maximum reimbursable fee for contracted services is \$135 per hour."

Recommendation

We recommend that the district ensure that hours claimed are reimbursable under the parameters and guidelines of the mandated costs program, and that the contracted services hourly rate is the hourly rate actually incurred but not more than the maximum reimbursable amount.

District's Response

The District is not disputing the \$1,105 adjustment related to ASB workshop.

Legal Services

The Controller reduced the legal services costs claimed by the District for two reasons. First, some of the attorney hours claimed at \$135 per hour were actually billed at a lower rate, so the Controller reduced the amount claimed to the lower actual rate paid. The District is aware that the reimbursement limit is \$135 per hour. Our error was to claim all legal hours as a group (multiply the total number of hours billed by \$135) rather than by the specific hourly rate for each attorney or law firm staff member. Thus, our calculation of all hours at the rate of \$135 was still significantly less than the total amount actually paid for the year, so we did not catch the error. While the Controller's adjustment is technically correct, it is another example of the how the state under funds the programs they mandate: in this case the state gets the benefit of the lower hourly rate and the claimant gets stuck with the higher actual market costs of legal services.

Second, the Controller asserts the 66.75 hours were not adequately supported by source documentation. The source documentation for legal services is the legal billings by the law firm, which were the District provided and which meet the requirements of the parameters and guidelines. The Controller has not indicated a published basis for additional documentation, which is not maintained in the usual course of business.

SCO's Comment

The finding and recommendation remain unchanged. Following are our comments on the issue presented by the district in its response.

The audit process is not the proper forum for the district to challenge the validity of the reimbursable attorney billing rate cap of \$135 per hour. The billing rate was established by regulation through the COSM. If the district believes that the billing rate cap is too low, it should submit a proposed amendment to the COSM for the increased billing rate.

As to the unsupported 66.85 hours claimed, the district provided no support for this amount; this amount was in excess of hours reported on the attorney billings.

**FINDING 3—
Overstated indirect
costs**

The district overstated indirect costs by \$23,569 during the audit period. This error occurred because the district inappropriately claimed indirect costs on \$337,316 of allowable costs for direct salaries, benefits, materials, and supplies that were also included in its indirect cost pool. Consequently, the calculation of indirect costs on this amount results in duplicated costs being claimed.

Parameters and Guidelines states, “Public school employer will be reimbursed for the ‘increased costs’ incurred as a result of compliance with the mandate.”

The following table shows the overstated indirect costs.

	Fiscal Year			Total
	2000-01	2001-02	2002-03	
Allowable salaries and benefits	\$ 34,570	\$184,564	\$115,409	\$334,543
Allowable materials and supplies	1,068	472	1,233	2,773
Total allowable costs	\$ 35,638	\$185,036	\$116,642	<u>\$337,316</u>
Indirect cost rate	× (6.75)%	× (6.76)%	× (7.42)%	
Audit adjustment	<u>\$ (2,406)</u>	<u>\$ (12,508)</u>	<u>\$ (8,655)</u>	<u>\$ (23,569)</u>

Parameters and Guidelines states, “School districts must use the Form J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.” The California Department of Education’s *California School Accounting Manual* (CSAM) follows generally accepted accounting principles, which allow costs to be accounted only once.

Recommendation

We recommend that the district identify all mandate-related direct costs that are also included in its indirect cost pool. The district should reduce the indirect costs claimed by the amount of indirect costs that it had already claimed as direct costs.

District’s Response

This issue was discussed throughout the audit and at the audit exit conference, with no resolution. The factual and legal deficiencies of the Controller’s position will be the subject of the incorrect reduction claim, which will result from this arbitrary action by the auditors. At this juncture, you will need to explain how this adjustment comports with the black letter language of the parameters and guidelines, which require claimants to use the J-380 nonrestrictive indirect cost rate or subsequent replacement, without modification.

SCO’s Comment

The fiscal impact of the finding and recommendation remains unchanged. The finding has been updated to clarify the audit issue. Following are our comments on the issue presented by the district in its response.

We disagree with the district's suggestion that indirect costs on \$373,316 of salaries, benefits, materials, and supplies it claimed for the mandate as direct costs are allowable even if the \$317,316 is concurrently included in the district's indirect cost pool and used to compute the indirect cost rate.

Parameters and Guidelines does state that school districts must use the Form J-380 non-restrictive indirect cost rate provisionally approved by the CDE. However, the *California School Accounting Manual* does not allow the district to apply its indirect cost rate on an amount that has been included in its indirect cost pool and used in developing its indirect cost rate. Furthermore, *Parameters and Guidelines* allows school districts to be reimbursed only for increased costs.

FINDING 4— Unreported offsetting reimbursement

The district did not report \$269,444 in offsetting reimbursements applicable to the mandate program. Offsetting reimbursements occurred because the district was partially reimbursed from federal and other state programs for salary and benefit costs and material and supply costs it claimed as direct costs.

The district claimed allowable salary and benefit costs as well as material and supply costs totaling \$427,479 during the audit period. The district claimed these costs as direct costs on its mandated cost claims. However, the district also included \$337,316 of these costs in its indirect cost pool. Through application of the district's indirect cost rates, other state and federal programs funded a portion of the mandated program's direct costs.

The district calculates its indirect cost rates based on expenditures of the General, Cafeteria, Adult Education, and Child Development funds. We reviewed the district's revenue reports for these funds to determine the percentage of federal and other state revenues versus total revenues for each year of the audit period.

The unreported offsetting reimbursements are summarized as follows.

	Fiscal Year			Total
	2000-01	2001-02	2002-03	
Allowable salaries and benefits	\$ 34,570	\$ 184,564	\$ 115,409	\$ 334,543
Allowable materials and supplies	1,068	472	1,233	2,773
Total allowable costs	35,638	185,036	116,642	\$ 337,316
Offsetting reimbursement	× (79.75)%	× (79.55)%	× (80.44)%	
Audit adjustment	\$ (28,421)	\$ (147,196)	\$ (93,827)	\$ (269,444)

Parameters and Guidelines states, "Public school employers will be reimbursed for the 'increased costs' incurred as a result of compliance with the mandate."

Parameters and Guidelines states that reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds shall be identified and deducted from the claim.

Recommendation

We recommend that the district identify all mandate-related direct costs that are also included in the district's indirect cost pool. The district should report offsetting reimbursements for the portion of these costs that is funded by federal and other state revenues.

District's Response

The District reported no "offsetting savings" in the form of other general funding sources because none exist. The Collective Bargaining mandate was not mandated by any legislation connected with the funding the Controller intends to "offset" to the mandate costs. Thus, the Controller's action is contrary to Government Code section 17556 and the legal determination by the Board of Control for this mandate. This issue was thoroughly discussed with audit staff, and while their reasoning seemed to change during the course of the discussion, it is clear there will be no resolution at this level and it will be the subject of an incorrect reduction claim.

SCO's Comment

The fiscal impact of the finding and recommendation remain unchanged. The finding has been updated to clarify the audit issue. Following is our comment on the issue presented by the district in its response.

The finding does not relate to legislation connected with funding the SCO intends to offset. Instead, the finding occurred because the district claimed amounts as direct costs for the mandate that were also included in its indirect cost pool and used in developing its indirect costs rate. To the extent that costs were reimbursed through federal and other state sources, the district did not incur increased costs.

Specifically, the district claimed 100% of specified costs as direct costs through their inclusion in the mandate claim. The district was partially reimbursed again from federal and other state sources for the same identical costs that were included in the indirect cost pool, when it applied the resulting indirect cost rates. Our calculation reflects the portion of claimed direct cost for the mandate that the district recovered from Federal and other state sources.

Other Issues

In its response, the district commented on statute of limitations, public records requests, and audit policies and procedures. Our comments follow each of the district's responses.

Statutes of LimitationsDistrict's Response

This was not an audit finding. The District's FY 2000-01 claim was filed on January 9, 2002. Pursuant to Government Code Section 17558.5, this claim is subject to audit only until December 31, 2004. The draft audit report is dated August 26, 2005. Therefore, audit or adjustment of this claim is barred by the statute of limitations.

SCO's Comment

The finding and recommendation remains unchanged.

The audit or adjustment of this claim is not barred by the statute of limitations.

Government Code Section 17558.5(a), in effect during the audit period, states that district's reimbursement claim is subject to an audit no later than two years after the end of the calendar year in which the claim is filed or last amended. The FY 2000-01 claim was filed in January 2002. We initiated this audit on October 1, 2004, which is prior to the statutory deadline to commence an audit of December 31, 2004.

Public Records RequestDistrict's Response

The District requests that the Controller provide the District any and all written instructions, memorandums, or other writing in effect and applicable during the claiming period which defines the type of source documentation required, timing of the date of the preparation of employee time records, and the prohibition of declarations as unacceptable documentation.

Government Code section 6253, subdivision (c), requires the state agency which is the subject of the request, within 10 days from receipt of a request for a copy of records, to determine whether the request, in whole or in part, seeks copies of disclosable public records in your possession and promptly notify the requesting party of that determination and the reasons therefore. Also, as required, when so notifying the District, please state the estimated date and time when the records will be made available.

SCO's Comment

In a separate letter, dated October 24, 2005, we provided the district with copies of *Parameters and Guidelines* adopted January 27, 2000, and SCO claiming instructions revised April 2000.

Audit Policies and ProceduresDistrict's Response

Many aspects of this audit presented challenges for our staff. Most of our concerns were shrugged off by the auditor who told us to ask Mr. Luna who told us to "call Jim Spano". While I can appreciate that there is a specific level for policymaking, I believe it is not unreasonable to expect your staff to know why they are making the adjustments.

Further, I am concerned about some of the methods used by your staff. Perhaps the best example of conduct, which seems egregious, based on my experience with government agencies is the E-mail Mr. Luna sent on November 24, 2004, to Dee Salerno at the California Department of Education. This correspondence took place after a November 16, 2004 meeting between District Staff and your audit team (Art Luna on speaker phone). During this meeting, Mr. Luna did not concur with our accounting practices and made threats regarding communication with various governmental agencies. These threats appeared to be retaliatory and not an attempt to solve the issue.

SCO's Comment

My staff advised me that the SCO auditor made herself available for any and all questions from the district's staff and management during status meetings held on November 16, 2004, and January 18, 2005, in order to update the district's staff and to answer any questions relating to the audit. The audit fieldwork ended with an exit conference held on March 17, 2005, in which the auditor and audit manager provided a recapitulation of the audit findings and an opportunity for the district to provide feedback on the audit.

Communication with the CDE was intended to solve the issue rather than to be retaliatory. The purpose of our communication with the CDE was to confirm our contention that direct costs assigned to a program could not also be included in the indirect cost pool. The representative from the CDE confirmed the SCO auditor's position, which was forwarded to the district.

Confirmations with external third parties are an acceptable audit procedure. Moreover, the audit manager never objected to the accounting practices of the district, but made it clear to the district's staff that costs allocated to the indirect cost pool could not be assigned to this mandated program as direct costs.

**Attachment—
District's Response to
Draft Audit Report**



NORWALK-LA MIRADA
Unified School District
Commitment to Students
Through Excellence in Education

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Ana Valencia
Member

Ginger Shattuck
Superintendent

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

September 26, 2005

Mr. Jim L. Spano, Chief
Compliance Audits Bureau
California State Controller
Division of Audits
P.O. Box 942850
Sacramento, CA 94250-5874

Re: Norwalk-La Mirada Unified School District
Chapter 961, Statutes of 1975
Collective Bargaining
Fiscal Years 2000-01, 2001-2002, and 2002-03

Dear Mr. Spano:

This letter is the response of Norwalk-La Mirada Unified School District to the letter of Vincent P. Brown dated August 26, 2005, and received by the District on September 14, 2005, which transmits a draft copy of your audit report of the District's Collective Bargaining annual reimbursement claims, for the period of July 1, 2000 through June 30, 2003.

Finding 1 Unallowable salary and benefits

In Finding 1, the draft audit report eliminates about half of the reported costs, \$503,346, as "unallowable salary and benefits costs." The Controller asserts that the reason for the adjustment is that the "district did not provide adequate source documents—such as individual activity log sheets or time records—to support employee hours charged." The entire basis for this finding is the quantity and quality of District documentation. None

of the adjustments were made because the costs claimed were excessive or unreasonable. The parameters and guidelines state:

- “G.
 - 3. Negotiations:
 - a. Show the costs of salaries and benefits for employer representatives participating in negotiations. Contracted services will be reimbursed.
 - b. Show the costs of salaries and benefits for employer representatives participating in negotiation planning sessions. Contracted services for employer representatives will be reimbursed.
 - c. Indicate the cost of substitutes for release time of exclusive bargaining unit representatives during negotiations. Give the job classification of the bargaining unit representative that required a substitute and dates the substitute worked.
 - 6. Contract administration and adjudication of contract disputes either by arbitration or litigation . . .
 - a. Salaries and benefits of employer personnel involved in adjudication of contract disputes. Contracted services will be reimbursed.
- H.
 - 3. Salary and Employee’s Benefits: Show the classification of the employees involved, amount of time spent, and their hourly rate. The worksheet used to compute the hourly salary rate must be submitted with your claim. Benefits are reimbursable. Actual benefit percent must be itemized. If no itemization is submitted, 21 percent must be used for computation of claim costs. Identify the classification of employees committed to functions required under the Winton Act and those required by Chapter 961, Statutes of 1975.”

The parameters and guidelines essentially require claimants to “show” or “indicate” the costs claimed. While everyone involved in the mandate reimbursement process can regret the imprecision of these instructions, these instructions do not require as a specific condition of reimbursement that claimants provide the “individual activity log sheets or time records” the Controller has established after the fact as an audit requirement. Instead, the parameters and guidelines specify a “worksheet” supporting the calculation of hourly rates and benefits.

Although the Controller does not cite in the audit report any other factual or legal reason to eliminate the reported costs, the audit staff made it clear during the audit that there are additional unpublished documentation standards, which caused the auditor to reject documentation provided by the District which was prepared in the ordinary course of business:

Annual Reporting

The Controller asserts that a monthly or annual summary of staff hours spent on the mandated activities is unacceptable. The Controller's standard is that all mandate and non-mandate daily activities of each employee should be recorded contemporaneously on some sort of daily time sheet. This is a policy preference of the Controller and not supported by the parameters and guidelines or any other legal basis, and as a practical matter inconsistent with the state mandated annual financial reporting requirements of the California Department of Education.

Employee Declarations

The District reported staff time for this mandate using documentation, which the Controller characterizes as "employee declarations." The Controller has, as a matter of policy rather than law, rejected the use of employee declarations because they are not contemporaneous documentation and are without corroborating evidence. The parameters and guidelines make no reference to contemporaneous documentation or corroborating evidence, yet the Controller insists that such a standard must be applied. If claimants are not aware of increased documentation standards until the audit occurs it is not possible for claimants to comply with the standards.

Arbitrary Rules

The Controller is asserting documentation standards, which are not stated in the parameters and guidelines and not adopted pursuant to the Administrative Procedure Act. In fact, it appears that some auditors, or SCO field offices, are making up their own rules. A good example is included in the March 17, 2005 exit conference agenda provided by the auditor. Under item C, the auditor insists "staff who claimed half of the annual hours (over 900 hours) would need duty statements to support the claims in the future." There is no requirement in the parameters and guidelines for a claimant to rewrite their employee job statements as a condition of mandate reimbursement. The alleged requirement would interfere with local government agency compliance with the state Labor and Education Codes regarding the statutory and contractual relationship between employer and employee, as well as impact the collective bargaining process the Controller is auditing and ostensibly comprehends. Further, and perhaps ironically, Controller staff has always previously asserted that job descriptions are per se insufficient documentation for annual claims.

The exit conference agenda also chastises the District about the availability of payroll information. Payroll reporting format and record retention requirements are controlled by other state laws, which are not subject to the convenience of either the District or Controller. On the other hand, should the Controller publish additional standards, claimants would be able to comply in the usual course of business, rather than after the fact when the auditor arrives on the site.

Finding 2 Unallowable contract services

The District is not disputing the \$1,105 adjustment related to the ASB workshop.

Legal Services

The Controller reduced the legal services costs claimed by the District for two reasons. First, some of the attorney hours claimed at \$135 per hour were actually billed at a lower rate, so the Controller reduced the amount claimed to the lower actual rate paid. The District is aware that the reimbursement limit is \$135 per hour. Our error was to claim all legal hours as a group (multiply the total number of hours billed by \$135) rather than by the specific hourly rate for each attorney or law firm staff member. More of the legal services were billed at a rate in excess of \$135 per hour than the number of hours billed at a rate less than \$135 per hour. Thus, our calculation of all hours at the rate of \$135 was still significantly less than the total amount actually paid for the year, so we did not catch the error. While the Controller's adjustment is technically correct, it is another example of the how the state under funds the programs they mandate: in this case the state gets the benefit of the lower hourly rate and the claimant gets stuck with the higher actual market costs of legal services.

Second, the Controller asserts the 66.75 hours were not adequately supported by source documentation. The source documentation for legal services is the legal billings by the law firm, which were the District provided and which meet the requirements of the parameters and guidelines. The Controller has not indicated a published basis for additional documentation, which is not maintained in the usual course of business.

Finding 3 Overstated indirect cost

This issue was discussed throughout the audit and at the audit exit conference, with no resolution. The factual and legal deficiencies of the Controller's position will be the subject of the incorrect reduction claim, which will result from this arbitrary action by the auditors. At this juncture, you will need to explain how this adjustment comports with the black letter language of the parameters and guidelines, which require claimants to use the J-380 nonrestrictive indirect cost rate or subsequent replacement, without modification.

Finding 4 Unreported offsetting savings

The District reported no "offsetting savings" in the form of other general funding sources because none exist. The Collective Bargaining mandate was not mandated by any legislation connected with the funding the Controller intends to "offset" to the mandate costs. Thus, the Controller's action is contrary to Government Code section 17556 and the legal determination by the Board of Control for this mandate. This issue was thoroughly discussed with audit staff, and while their reasoning seemed to change during the course of the discussion, it is clear there will be no resolution at this level and it will be the subject of an incorrect reduction claim.

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Please let us know if you have further questions.

Sincerely,



Maureen Saul, PhD, Assistant Superintendent
Norwalk-La Mirada Unified School District

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, California 94250-5874**

<http://www.sco.ca.gov>